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DEC 20 2010

Application No. 09/195,105
Response dated December 20, 2010
Reply to Advisory Action of November 18, 2010

REMARKS

In the Advisory Action, the Examiner stated that the request for reconsideration did not place the application in condition for allowance, and provided reasons for this determination in the Advisory Action. Applicant respectfully requests the Examiner to reconsider the outstanding rejections in view of the comments set forth below in response to the Advisory Action. Applicant's remarks from the Amendment dated October 20, 2010 (the "October Amendment") are incorporated by reference herein.

I. Examiner Comments in the Advisory Action pertaining to the use tax being "based on the location of the consumer."

In the Advisory Action, the improperly Examiner states that "Applicant argues that prior art fails to teach that use tax is based on the location of the consumer." (Advisory Action, page 2). This statement is incorrect. Applicant stated on page 12 of the October Amendment that "Chong does not teach or suggest computing use tax data 'based upon a location where the purchased goods are to be shipped' and not based on the location of the consumer (October Amendment, page 12 (emphasis added)). The computation of a use tax based on where the goods are to be shipped is different from a computation of a use tax based on the location of a consumer. In particular, the shipping location need not be the same as the consumer location. This is a fundamental distinction that Chong does not disclose.

II. Examiner Comments pertaining to "transmission of tax data directly to the governmental taxing authority."

The Examiner states that "Cretzler teaches that the total amount of the transaction is first sent to the merchant bank, however, taxes alone are sent to the taxing authority, and Cretzler therefore teaches the transmission of tax data directly to the governmental taxing authority." (Advisory Action, page 2). Applicant respectfully submits that the Examiner's own statement shows that Cretzler does not teach the invention of independent claims 30 and 32.

A. Directly connecting and transmitting tax data directly to the governmental taxing authority."

The Examiner states that the total amount of the transaction is "first sent" to the

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merchant bank. This statement alone shows that tax data is not transmitted "directly" to the governmental taxing authority as claimed in independent claims 30 and 32.

B. The transmission of "tax data" directly to the governmental taxing authority.

The Examiner states that the total amount of the transaction is first sent to the merchant bank, then "taxes alone are sent to the taxing authority." (Advisory Action, page 2). Applicant submits that any tax data, to the extent that what is sent to the merchant bank constitutes tax data, stops at the merchant bank and is not forwarded to the governmental taxing authority. As stated by the Examiner, it is the "taxes alone" (i.e., payment or money) that is sent to the taxing authority, not tax data as recited in independent claims 30 and 32.

III. Examiner Comments pertaining to a purchase being made "over the Internet by a consumer."

The Examiner states that Bloomberg teaches that the transaction information may be stored "on-line" by the clerk making the sale, and thus the part of the purchase process is being done "on-line." (Advisory Action, page 2). Applicant submits that Bloomberg nonetheless does not disclose or suggest a purchase over the Internet by a consumer for the reasons set forth below.

A. [A] purchase made over the Internet.

Independent claims 28 and 33 each concern "a purchase made over the internet."

- (i). A purchase made over the Internet does not consist merely of the storing of transaction data by a clerk making a sale.

A purchase involves an exchange of value between two parties. For example, Merriam-Webster Dictionary defines "purchase" as "to obtain by paying money or its equivalent." (www.merriam-webster.com/dictionary/purchase (accessed December 6, 2010)(copy attached). Applicant respectfully submits that the storing of information on a computer by a clerk does not amount to "a purchase over the Internet" as claimed in independent claims 28 and 33.

Application No. 09/195,105
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(ii). The Examiner impermissibly attempts to inject the Internet into Bloomberg's use of the term "on-line."

Bloomberg states that transaction data may be "stored on-line as the information is entered by the clerk making the sale, or may be stored off-line, for example at the dealer location." (Bloomberg, col. 3, lines 58-61.) At the time that Bloomberg was filed (August 9, 1994), the term "on-line" did not imply "Internet." The term "on-line" was more generally associated with use of a computer. Wikipedia states that "[i]n general, 'on-line' indicates a state of connectivity, while 'offline' indicates a disconnected state." (Wikipedia, www.wikipedia.org/wiki/On-line, (accessed December 8, 2010)). A person of ordinary skill in the art at the time of Bloomberg's disclosure would not have concluded that a transaction was being conducted over the Internet based on Bloomberg's disclosure. Accordingly, Applicant submits that Bloomberg's storage of information "on-line" is not "over the Internet" as recited in independent claims 28 and 33.

Moreover, Bloomberg discloses that purchases are made "at each retail location." (Bloomberg, col. 3, lines 39-40). Since the actual purchase is conducted at the retail location and not the Internet, Bloomberg does not disclose or suggest this feature of independent claims 28 and 33.

B. "[B]y a consumer."

Independent claims 28 and 33 each recite that the purchase made over the Internet is "by a consumer." Even, *assuming arguendo*, that part of the purchase process is being conducted "on-line" as contended by the Examiner, the portion being conducted on-line is by a clerk, not "by a consumer" as claimed. Accordingly, Bloomberg also fails to disclose or suggest this feature of independent claims 28 and 33.

Applicant submits that independent claims 1, 9, 17, 28, 30, 32, and 33 are patentable and that dependent claims 2-8, 10-14, 16, 18-27, 29, and 31 dependent from one of independent claims 1, 9, 17, 28, or 30, or claims dependent therefrom, are patentable at least due to their dependency from an allowable independent claim.

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To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1068.

Respectfully submitted,

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Date: December 20, 2010

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